

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Robert A., Sr. & Suzanne G. Warner)
Map 042-16-0, Parcels 154.00, 161.00 & 224.00) Davidson County
Industrial Property)
Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued at \$772,400 as follows:

Parcel 154.00

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$104,500	\$79,900	\$184,400	\$73,760

Parcel 161.00

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$149,000	\$421,600	\$570,600	\$228,240

Parcel 224.00

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$17,000	\$400	\$17,400	\$6,960

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on January 10, 2006 in Nashville, Tennessee. In attendance at the hearing were Robert A. Warner, Sr., the appellant, and Davidson County Property Assessor's representative Dennis Donovan, MAI.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of three contiguous parcels located on Woodruff and Madison Streets in the Madison section of Nashville. All three parcels adjoin the CSX Railroad on the west side. Because access to parcel 154 is through parcel 161 and parcel 224 cannot be built upon, the three parcels are utilized as a single property and have been appraised as such by both parties. Subject parcels contain approximately 0.8 acres and are improved with a basic concrete shop building and open sheds utilized primarily for storage.

The taxpayer contended that subject property should be valued at approximately \$500,000. In support of this position, the taxpayer testified that he has unsuccessfully offered to sell subject property for \$550,000, but \$500,000 constitutes the best offer to date. In addition, the taxpayer argued that sales of other properties in the area support a reduced value. Finally, the taxpayer asserted that the current appraisal of subject property does not adequately consider the poor condition of the improvements and limited utility of the land due to various encumbrances.

The assessor contended that subject property should be valued at \$636,700. In support of this position, the cost approach as summarized by the property record cards was introduced into evidence. In addition, a vacant lot sale was introduced into evidence.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$636,700 as contended by the assessor absent additional proof from the taxpayer.

Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, the burden of proof in this matter falls on the taxpayer. *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that subject property has not been listed for sale with a realtor and offered for sale on the market. The administrative judge finds Mr. Warner testified that he offered to sell subject property to his tenants after consulting with a broker. Respectfully, the administrative judge finds that these informal attempts to sell subject property do not constitute sufficient evidence to establish the upper limit of subject property's market value.

The administrative judge finds that Mr. Warner's testimony concerning comparable sales was general in nature and involved parcels that understandably differ from the subject property in important respects. The administrative judge finds that significantly more information about the sales and additional analysis would be necessary to determine what, if any, weight those sales should receive.

The administrative judge finds that the procedure normally utilized in the sales comparison approach has been summarized in one authoritative text as follows:

To apply the sales comparison approach, an appraiser follows a systematic procedure.

1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.
2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect arm's-length, market considerations. Verification may elicit additional information about the market.

3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit. The goal here is to define and identify a unit of comparison that explains market behavior.
4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then *adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable*. This step typically involves using the most comparable sale properties and then adjusting for any remaining differences.
5. Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values.

[Emphasis supplied]

Appraisal Institute, *The Appraisal of Real Estate* at 422 (12th ed. 2001).

The administrative judge finds that except for the one building constructed in 1997, the assessor has already depreciated the improvements by anywhere from approximately 60% to 90%.¹ Absent additional evidence from the taxpayer such as a cost approach, the administrative judge has no basis to conclude additional depreciation is warranted.

Based upon the foregoing, the administrative judge would normally affirm the current appraisal of \$772,400 based upon a presumption of correctness. In this case, however, the administrative judge finds that the assessor's contended value of \$636,700 constitutes the upper limit of value. The administrative judge finds the assessor's suggested allocation should be adopted and the improvements (except for the paving on parcel 224) should all be assigned to parcel 161 in accordance with their actual physical location.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

Parcel 154.00

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$11,100	\$41,200	\$52,300	\$20,920

Parcel 161.00

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$122,4000	\$459,800	\$582,200	\$232,880

Parcel 224.00

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$1,800	\$400	\$2,200	\$880

¹ The administrative judge finds the assessor's decision to depreciate the building constructed in 1997 by 10.8% does not appear unreasonable.

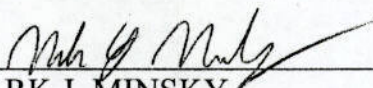
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 13th day of January, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Robert A. Warner, Sr.
Jo Ann North, Assessor of Property